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June 17, 2013

**VIA ELECTRONIC & US MAIL**

Ms. Stephanie Vaughn  
ATTN: Lower Passaic River Remedial Project Manager  
Emergency and Remedial Response Division  
U.S. EPA, Region 2  
290 Broadway, 19th Floor  
New York, New York 10007

**Re: Monthly Progress Report No. 73 – May 2013  
Lower Passaic River Study Area (LPRSA) Remedial Investigation/  
Feasibility Study (RI/FS)  
CERCLA Docket No. 02-2007-2009**

Dear Ms. Vaughn:

**de maximis, inc.** is submitting this Monthly Progress Report for the above-captioned project on the behalf of the RI/FS Agreement Settling Parties (Cooperative Parties Group or CPG) pursuant to the Administrative Settlement Agreement and Order on Consent (Settlement Agreement or AOC). The Progress Report satisfies the reporting requirements of Paragraph 42 of said Settlement Agreement.

**(a) Actions which have been taken to comply with this Settlement Agreement during the previous month.**

**Meetings/Conference Calls**

- On May 9, CPG and EPA held a conference call to discuss a second Supplemental Sampling Program (SSP 2).
- On May 31, EPA and CPG held a conference call to continue discussions regarding SSP 2.
- On May 31, EPA and CPG modeling teams held a conference call to discuss a potential issue with the EPA modeling code.

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### **Correspondence**

- On May 2, CPG notified EPA's contractor of the fish tissue sample mass for the EPA requested split samples from the Background Tissue Survey.
- On May 6, CPG provided comments on the Newark Bay Study Area (NBSA) Data Gaps Analysis Report to EPA and requested an update on the NBSA Conceptual Site Model (CSM).
- On May 8, CPG provided tables and maps for a conference call with EPA to discuss the SSP 2.
- On May 9, CPG notified EPA's contractor of the fish tissue sample mass for the EPA requested split samples from the Background Tissue Survey.
- On May 10, CPG provided additional information related to the CPG's February 28, 2013 Chemical Water Column Monitoring (CWCM) program presentation to EPA.
- On May 10, CPG provided updated SSP 2 maps and a summary table of proposed probing areas to EPA.
- On May 10, CPG notified EPA's contractor of the fish tissue sample mass for the EPA requested split samples from the Background Tissue Survey.
- On May 10, EPA provided comments on the proposed Field Modification for the next Small Volume (SV) CWCM High Flow Event.
- On May 15, CPG submitted the April Monthly Progress Report to EPA.
- On May 17, CPG submitted a revised High Flow SV CWCM Field Modification to EPA.
- On May 20, CPG provided a memorandum to EPA discussing the CPG's surface sediment contaminant concentration mapping results.
- On May 23, EPA provided comments on the SSP 2 sampling location discussion of May 9 to the CPG.
- On May 28, EPA and CPG exchanged emails regarding the EPA's request for additional probing for identification of potential SSP 2 sampling locations.
- On May 23, EPA notified CPG that the NBSA single-beam bathymetry data and water levels had been uploaded to the Tierra/EPA SharePoint Site.
- On May 24, CPG provided EPA an updated figure of CWCM sampling locations.
- On May 28, CPG provided comments to EPA on the requested additional probing areas under consideration for the SSP 2 sampling locations.
- On May 29, CPG and EPA exchanged emails regarding Field Modification for the SSP 2 Sediment Program activity.
- On May 31, EPA provided Tierra's Phase 1 Removal Final Construction Report to the CPG.
- On May 31, EPA responded to comments on the Field Modification for the SSP 2 probing activity.

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### **Work**

- CPG completed validation of data from the SV CWCM Routine Flow Event #5.
- CPG continued validation of data from the SV CWCM High Flow Event #1.
- CPG completed analysis of samples from the High Volume CWCM Event #1.
- CPG continued validation of data from the High Volume CWCM Event #1.
- CPG continued planning activities for a potential SV CWCM High Flow Event #2.
- CPG continued processing background survey fish tissue samples.
- CPG completed taxonomy testing on the Benthic Background Sediment Survey SQT samples.
- CPG continued development of the background and reference site example outline requested by EPA.
- CPG continued drafting a data report for the Dissolved Oxygen (DO) Monitoring Survey.
- CPG continued drafting a data report for the results of the upstream sediment chemistry testing associated with the Benthic Background Sediment Survey.
- CPG initiated drafting a data report for the results of the upstream taxonomy enumeration associated with the Benthic Background Sediment Survey.
- CPG continued development of a preliminary Conceptual Site Model (CSM) deliverable.
- CPG initiated early baseline risk assessment activities (update CSM, benthic and wildlife assessments).
- CPG Modeling Team continued work on decoupling the Hydrodynamic and HQI ECOM-SEDZLJS Sediment Transport Model codes to shorten run times and long-term sediment transport calibration runs.
- CPG Modeling Team continued work on the RCATOX Chemical Fate and Transport Model Code initial conditions and long-term calibration runs.
- CPG Modeling Team continued work on system understanding for hydrodynamic and sediment transport processes in Newark Bay.
- CPG continued review of sediment characteristics and potential target remedy locations in support of initial Feasibility Study (FS) evaluations.

### **(b) Results of Sampling and Tests**

- On May 15, CPG submitted to EPA a DVD containing the .PDF of the High Volume CWCM Program data report that was received during the April reporting period.

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- On May 21, physical and chemical data for Newark Bay from SV CWCM Routine Events #1 through 5 and the Low and High Flow Events #1 were posted to the EPA SharePoint Site.
- On May 31, CPG submitted to EPA an update of corrected validated data for the Background Benthic Survey QAPP Addendum (sediment data).

**(c) Work planned for the next two months with schedules relating to the overall project schedule for RI/FS completion**

- CPG will complete validation of data from the SV CWCM High Flow Event #1.
- CPG will complete validation of data from the HV CWCM Event #1.
- CPG will continue planning activities for potential SV CWCM High Flow Event #2 incorporating changes approved by EPA in a field modification.
- CPG will conduct SV CWCM High Flow Event #2, if River conditions meet SV CWCM High Flow QAPP criteria.
- CPG will conduct the High Volume CWCM field Event #2.
- CPG will conduct a sediment probing activity in support of SSP 2 locations.
- CPG will continue drafting a data report for the DO Monitoring Survey.
- CPG will continue drafting a data report for the results of the upstream sediment chemistry testing associated with the Benthic Background Sediment Survey.
- CPG will continue drafting a data report for the results of the upstream toxicity testing associated with the Benthic Background Sediment Survey.
- CPG will continue drafting a data report for the results of the upstream taxonomy enumeration associated with the Benthic Background Sediment Survey.
- CPG will conduct chemical analysis of Tissue Background Survey samples.
- CPG will continue drafting the Preliminary CSM Report.
- CPG will continue early baseline risk assessment activities (update CSM, benthic and wildlife assessments).
- CPG Modeling Team will continue calibration runs with the HQI ECOM-SEDZLJS and RCATOX codes and inputs.
- CPG Modeling Team will continue support with the CWCM High Flow program planning and development.
- CPG will participate in LPR/Newark Bay Modeling Program progress calls and follow-up modeling collaboration meetings with EPA and EPA consultants.
- CPG will continue initial FS evaluation of targeted remedy locations.

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**(d) Problems encountered and anticipated problems, actual or anticipated delays, and solutions developed and implemented to address actual or anticipated problems or delays.**

- Based upon discussions with Region 2, the CPG understood that Region 2 considered the calibration of the HQL sediment transport and the chemical fate and transport model sufficient to support the revised FFS for the lower 8 miles of the LPRSA in the fall of 2012. Furthermore, the CPG understands that Region 2 received comments related to the FFS model both from the NRRB review conducted in December 2012 and the model peer review in February and March 2013. The CPG has requested that Region 2 provide the results of both the NRRB review and model peer review especially the comments that may be pertinent to the CPG's LPR/NB model development and is awaiting Region 2's decision on releasing the comments. Finally, the CPG understands that it may require up to six months for Region 2's Modeling Team to incorporate, calibrate and re-run the model based on the NRRB and peer review comments received by Region 2 through the spring of 2013. To date, Region 2 has declined the CPG's requests to provide model-related comments from either review. The CPG is continuing to work on both sediment transport model and the chemical fate and transport model for the LPRSA and incorporating the improvements and other changes that CPG has discussed with Region 2. Region 2 and CPG collaboration meetings were conducted in throughout 2012 and in February 2013; this most recent and previous meetings are providing an opportunity for both modeling teams to understand differences between each team's approaches. The CPG provided a detailed technical memorandum on its progress on the LPR/NB sediment transport modeling in January to Region 2 as well as providing current code and input and output files which was discussed on February 28. EPA provided Newark Bay SedFlume data and FFS Model input files in March. Delays associated with both the sediment transport modeling and chemical fate transport modeling schedules are extending the completion of the LPRSA RI/FS.
- The CPG understands that the Region 2 approved TMO's CSO/SWO Workplan in May 2011. It is also the CPG's understanding that the Method Detection Studies proposed by TMO and other work such as construction of the proposed mobile centrifuge/CSO sampling trailer required for Phase 1 work were completed in late August 2012. It is also CPG's understanding that the EPA and TMO had agreed in late 2012 to delay the Phase I CSO sampling due to the failure of the PVSC treatment system and other regional POTWs. Furthermore, the CPG understands that delays to CSO Phase 1 sampling were caused by TMO inability to receive permission for the discharge of CSO effluent from its trailer back to the CSO from initially PVSC and then municipalities. Finally, TMO

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did not complete the Phase 1 CSO Sampling in May 2013 as outlined in its latest schedule submitted to Region 2. The extent of the LPRSA RI/FS schedule impacts associated with the ongoing delays in the Phase 1 sampling schedule is significant. Moreover, there are likely to be significant delays of the Phase 2 CSO field schedule that will prevent a timely completion of the TMO CSO Study and adversely impact the timely completion of the LPRSA RI/FS. Specifically TMO's CSO Study schedule included in an approved CSO Study QAPP amendment. The revised CSO Study schedule indicates that validated data from Phase 2 will be available in late 2015 date which is one year after the anticipated Draft RI report submission in 2014 and FS submission in 2015. TMO's CSO schedule is an unacceptable delay to the LPRSA RI/FS schedule. The CPG is evaluating alternative approaches for CSO/SWO data to be used in the LPR/NB Chemical Fate & Transport Model to maintain a LPRSA RI/FS Study completion date of first quarter 2015.

- Region 2 provided comments on July 11, 2011 which disapproved the revised risk assessment planning documents and required submission of revised documents within 30 days. Additionally, Region 2 provided a technical memo on July 25, 2011 on fish and crab consumption rates for the LPRSA Human Health Risk Assessment. The CPG filed a notice of dispute resolution in accordance with Section XV of the AOC on July 25, 2011 in response to Region's July 11, 2011 directive letter and July 25, 2011 technical memorandum. The revised RARC and TRV deliverables were submitted on August 9, 2011. On September 6, 2011 the CPG submitted a position paper in response to EPA's July 11, 2011 comments and July 25, 2011 technical memorandum. Dispute resolution meetings were held on December 1, 2011 and January 13, 2012. Region 2 provided the results of the dispute resolution to the CPG on February 7, 2012 and the CPG implemented the changes specified in the July 2011 directive comments and the results of the dispute resolution in the revised RARC which was submitted on April 13, 2012. Region 2 provided comments on the revised RARC on August 30, 2012; the CPG met with Region 2 on January 7, 2013 to discuss remaining background and reference issues and had a telephone call with EPA on January 28 to discuss cooking loss.

Since early in 2013, Region 2 has promised to provide revised definitions for background and reference that the CPG can include in the revised RARC. It is the CPG's understanding that the issuance of the revised definitions is being held-up by the NJDEP, which does not accept definitions that are otherwise acceptable to the Region and the other Partner Agencies, and which appear to be acceptable to the CPG based on the CPG's understanding of the revised definitions. Once the revised background and reference definitions are provided then the revised RARC can be submitted for EPA approval. However, if the

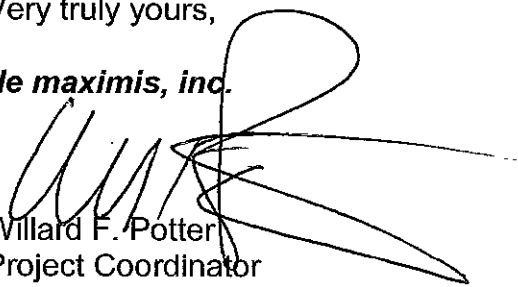
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definitions are significantly different than the CPG understands them to be then the CPG reserves its rights under the AOC. The CPG has been prepared to resubmit the revised final RARC for several months to Region 2 for final approval under the presumption that the CPG receives the revised background and reference definitions this spring. If the definitions are not received by July 1, 2013, the completion of the LPRSA RI/FS in Q1 2015 will be affected.

If you have any questions, please contact me or Rob Law at (908) 735-9315.

Very truly yours,

**de maximis, inc.**

  
Willard F. Potter  
Project Coordinator

cc: Pat Hick, EPA Office of Regional Counsel  
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